

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

BRUCE W. FOUTCH, II,

Plaintiff,

vs.

JEREMY ZIMMER,

Defendants.

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Case No. 14-cv-1366-SCW

MEMORANDUM AND ORDER

WILLIAMS, Magistrate Judge:

Before the Court is Plaintiff's Motion to Amend Complaint (Doc. 24). Plaintiff wishes to supplement his complaint by adding an affidavit from a witness, Anna Marie Washburn, as well as photos of the injuries Plaintiff received due to the alleged excessive force. However, the Court notes that these documents do not need to be attached to Plaintiff's complaint; rather, these documents are evidence in support of his allegations which is unnecessary for stating a claim in a complaint. Plaintiff's evidence can be used to support a brief in opposition to a dispositive motion, for instance, Defendant has recently filed a motion for summary judgment which Plaintiff has yet to respond to. Plaintiff's witness affidavit and photos could be included as evidence in support of a brief in response to that motion. But the documents do not need to be included in his initial complaint. Accordingly, the Court **DENIES** Plaintiff's motion to amend complaint (Doc. 24).

The Court notes, as previously stated, that Plaintiff has not yet responded to Defendant's pending motion for summary judgment (Docs. 21 and 22). The deadline for filing that response has recently passed but after Defendant filed his dispositive motion, Plaintiff filed his motion to amend complaint. While the pending motion to amend did not absolve Plaintiff of his responsibility to submit a response to the summary judgment motion, the Court will give Plaintiff additional time to

respond in light of his request to put evidence into the record. Plaintiff will have until **May 13, 2015** to submit a response. Should Plaintiff fail to respond to the pending motion for summary judgment, his failure to respond will be considered an admission of the merits of Defendant's motion. *See* **SDIL Local Rule 7.1(c).**

IT IS SO ORDERED.

DATED: April 22, 2015

/s/ Stephen C. Williams
STEPHEN C. WILLIAMS
United States Magistrate Judge